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U.S. Citizenship
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Services

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MAR 26 2004

FILE:

Office: CALIFORNIA SERVICE CENTER

Date:

IN RE:

Petitioner:

Beneficiary:

PETITION: Immigrant Petition for Alien Worker as an Outstanding Professor or Researcher pursuant to Section 203(b)(1)(B) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(1)(B)

ON BEHALF OF PETITIONER:

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

Marie Johnson

for Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The employment-based immigrant visa petition was denied by the Director, California Service Center, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The petitioner engages in the research, production and sale of optical fiber equipment for telecommunications. It seeks to classify the beneficiary as an outstanding researcher pursuant to section 203(b)(1)(B) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(1)(B). The petitioner seeks to employ the beneficiary permanently in the United States as a senior research scientist. The director determined that the petitioner had not established that the beneficiary is recognized internationally as outstanding in his academic field, as required for classification as an outstanding researcher.

8 C.F.R. § 103.3(a)(1)(v) states, in pertinent part, “[a]n officer to whom an appeal is taken shall summarily dismiss any appeal when the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal.”

On the Form I-290B Notice of Appeal, filed on September 2, 2003, counsel indicated that a brief would be forthcoming within thirty days. To date, six months later, careful review of the record reveals no subsequent submission; all other documentation in the record predates the issuance of the notice of decision.

The statement on the appeal form reads, in its entirety:

[The beneficiary] is clearly an outstanding researcher in the fields of laser physics and optical fiber communications. His numerous journal publications, conference presentations, paper reviewing experience, paper citations by other scientists, awards and honors all evidence that [the beneficiary] is an outstanding research scientist with the national acclaim. INS’ deny [sic] was based on prejudice [sic], carelessness in document review, and misunderstanding of the case.

This is a general statement that makes no specific allegation of error. The first sentence is simply a general conclusion. The second sentence describes the petitioner’s evidence, but the director discussed this evidence at length in the denial notice. Counsel does not identify any flaw in that discussion, and counsel cannot overcome the director’s findings merely by re-listing the types of evidence submitted. The third and final sentence in the appeal statement consists of general allegations, containing no specific claims, and unsupported by any evidence. Allegations of prejudice and carelessness, without elaboration, are not sufficient basis for a substantive appeal.

Inasmuch as counsel has failed to identify specifically an erroneous conclusion of law or a statement of fact as a basis for the appeal, the appeal must be summarily dismissed.

ORDER: The appeal is dismissed.